

# San Diego County Superior Court Rules

---

## APPENDIX A

### GUIDELINES FOR DEFAULT JUDGMENTS

After you obtain entry of default you must obtain a default judgment within 45 days, unless other defendants named in the complaint have answered. A default judgment may be obtained from the clerk without a hearing or judicial review if the action is one arising from a contract or judgment and seeks recovery of money damages only if a fixed or determinable amount and the defendant was not served by publication (Code Civ. Proc. § 585, (a).) Applications for default judgment by clerk should be submitted to the civil business office of the appropriate court.

If, in the sole determination of the court, the case is not amenable to default judgment by clerk pursuant to Code of Civil Procedure § 585(a), the court encourages the submission of applications for default judgment by court by declaration or affidavit in accordance with Code of Civil Procedure section 585(d). Such applications should be submitted to the Civil Business Office of the appropriate court.

Entry of judgment against defaulted defendants will generally be deferred until resolution of the entire action. If you believe a several judgment resolution against a defaulted defendant is proper prior to the resolution of the entire action, you should support your application with applicable factual and legal authority (see, Code Civ. Proc. § 579).

Where the original creditor on an open book account is a bank, a saving association, a federal association, a state or federal credit union, or a subsidiary, affiliate, or holding company of any of those entities, or an authorized industrial loan company, a licensed consumer finance lender or a licensed commercial finance lender, attorney fees will not be awarded under Code of Civil Procedure section 1717.5. An assignee has no greater rights than an assignor. *Brienza v. Tepper* (1995) 35 Cal.App.4th 1839.

The court retains discretion to require oral prove-up hearings in appropriate cases following its review of the papers submitted. Prove-up hearings are often triggered by the following:

1. Credibility of parties/claims at issue;
2. Punitive damages claims;
3. Fraud claims;
4. Personal injury/wrongful death claims;
5. Quiet title actions; and/or
6. Claims for injunctive relief.

#### COURT JUDGMENT

The following must be submitted:

- \_\_\_\_ A proposed judgment not exceeding the amount of the prayer.
- \_\_\_\_ In personal injury and wrongful death actions, a judgment not exceeding the total on the statement described in Code of Civil Procedure section 425.11 (Request for Statement of Damages) and Code of Civil Procedure section 425.115 (Reservation of Right to Seek Punitive Damages).
- \_\_\_\_ A declaration setting forth facts showing that the defendant is not in military service. This declaration must be no older than six months. (Servicemembers Civil Relief Act, 50 USC Appen. § 520).
- \_\_\_\_ A Memorandum of Costs. (See, California Rule of Court, rule 879; Judicial Council Form 982(a)(6)).
- \_\_\_\_ The original written contract, if any, giving rise to the action, or a declaration regarding lost document. California Rules of Court, rule 234.
- \_\_\_\_ If the action is upon an open book account, an affidavit or declaration that no written contract exists. (See, Cal. Civil Procedure Before Trial (Cont.Ed.Bar) § 56.41)
- \_\_\_\_ A computation of any interest, including the date of accrual and the rate of interest.
- \_\_\_\_ A copy of any notice sent to Defendant in accordance with Code of Civil Procedure section 1033(b)(2), if applicable.
- \_\_\_\_ A dismissal of all unnamed defendants, including DOES.
- \_\_\_\_ The ledger or most recent invoice showing amounts due.

#### CLERK'S JUDGMENT

The following must be submitted:

- \_\_\_\_ A proposed judgment not exceeding the amount of the prayer.
- \_\_\_\_ A declaration setting forth facts showing that the defendant is not in military service. This declaration must be no older than six months. (Servicemembers Civil Relief Act, 50 USC Appen. § 520).
- \_\_\_\_ A Memorandum of Costs. (See, California Rules of Court, rule 879; Judicial Council Form 982(a)(6)).

## San Diego County Superior Court Rules

---

\_\_\_\_ The original written contract, if any, giving rise to the action, or a declaration regarding lost document. California Rules of Court, rule 234.

\_\_\_\_ A computation of any interest, including the date of accrual and the rate of interest.

\_\_\_\_ A copy of any notice sent to Defendant in accordance with Code of Civil Procedure section 1033(b)(2), if applicable.

\_\_\_\_ A dismissal without prejudice or a written waiver of any causes of action other than those on which a clerk can enter judgment pursuant to Code of Civil Procedure section 585(a).

\_\_\_\_ A dismissal of all unnamed defendant, including DOES.

\_\_\_\_ If the action is upon an open book account, an affidavit or declaration that no written contract exists. (See, Cal. Civil Procedure Before Trial (Cont.Ed.Bar) § 56.41)

\_\_\_\_ On an open book account, plaintiff may obtain a clerk's entry of judgment provided that plaintiff submits one of the following:

1) A verified complaint; or,

2) A declaration setting forth figures from which the clerk may perform a simple computation to obtain the amount of the judgment; or,

3) the ledger or most recent invoice showing amounts due, from which the clerk can perform a simple calculation to compute judgment.

Absent pursuit of at least one of these three alternatives, it is the policy of the San Diego Superior Court that such claims must be presented for entry of judgment by the court.

(Eff. 1/1/98; Rev. 7/1/2001; Rev.7/1/2003; Rev. 1/1/2006)